

60137-158
270-3038-UREMARKS

The Examiner stated in the Office Communication mailed March 17, 2004 that the Amendment filed on February 10, 2004 presented claims drawn to a non-elected invention and is non-responsive, and the claims are not readable on the elected invention because the claims are drawn to an invention distinct from and independent of the invention previously claimed. The Examiner stated that the Amendment filed on January 29, 2003 claimed an article comprising a strike layer directly contacting a zinc or aluminum substrate (claim 32), and the Amendment filed on February 10, 2004 claimed an article comprising a strike layer directly contacting a nickel layer (22 and 32), and therefore the claims are drawn to a non-elected invention. Applicant respectfully disagrees.

The Examiner cited section 821.03 of the MPEP. MPEP 821.03 states that if claims are added by amendment following an action by the Examiner to an invention other than previously claimed, the "Applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered."

However, the claims presented in the amendment filed on February 10, 2004, are not drawn to an invention distinct from and independent of the invention previously claimed. Even through claim 32 recites an article comprising a strike layer directly contacting a zinc or aluminum substrate, claim 22 of both the original application and the amendment filed on January 29, 2003 recited a coating including a strike layer consisting essentially of zirconium, titanium or zirconium-titanium alloy and a layer consisting essentially of zirconium compound, titanium compound, or zirconium-titanium alloy compound on the strike layer. That is, both original claim 22 and the amended claim 22 presented in the amendment filed January 29, 2003 were generic. As claim 22 was generic, the amendment filed on February 10, 2004 cannot be directed to an invention distinct from or independent of the invention previously claimed in claim 22. The rejection is improper, and Applicant requests that the rejection be withdrawn.

Thus, Claims 22-54 are in condition for allowance. No additional fees are seen to be required. If any fees are due, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

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270-3038-U

Respectfully submitted,

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, facsimile no. (703) 872-9306 on April 19, 2004.

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